REMARKS

Claims 1 – 22 remain in the application and are rejected herein. Claim 19 is objected to and amended herein. Although this amendment is being filed with all requisite fees, the Commissioner is hereby authorized to charge any fees that may be required for this paper or credit any overpayment to Deposit Account No. 50-3818.

Claim 19 is objected to for including an extra "said." Responsive thereto, claim 19 is amended herein to delete the extra word. Reconsideration and withdrawal of the objection to claim 19 is respectfully requested.

The MPEP provides in pertinent part "the examiner should always look for enabled, allowable subject matter and communicate to applicant what that subject matter is at the earliest point possible in the prosecution of the application." MPEP §2164.04 (emphasis original); *and see*, Director Kappos's recent e-mail to patent examiners on patent quality.

Claims 1 – 22 are rejected as being unpatentable under 35 U.S.C. §§102(e) or 103(a) over U.S. Patent No. 6,223,213 to Cleron et al. The rejection is respectfully traversed.

The Office action asserts that Cleron et al. teaches the present invention, relying essentially on Cleron et al. description of Figure 7 at col. 6, line 9 – col. 7, line 27. However, Cleron et al. teaches recording video in an open e-mail message in response to user control; Cleron et al. fails to teach recording the video, and then, automatically opening an e-mail and automatically inserting the video into the open e-mail as the claims recite.

"FIG. 5 shows an email page 110 rendered by the browser UI 32. The email page 110 is accessed and displayed by selecting an appropriate hypertext link on a home page." Cleron et al. col. 5, lines 16 – 18. Applicants note Photo button or link 122 is part of the email page 110 in Figure 5. "FIG. 7 shows the video capture panel 150 **overlaid on the email page 110** in response to activation of the 'Photo' link 122." *Id*, col. 6, lines 9 – 11 (emphasis added). Clearly, the email page 110 was active prior "to activation of the 'Photo' link 122." *Id*. Then from the active email page 110 and after "activation of the 'Photo' link 122" (*Id*), the "user can

capture a video clip by pressing a 'Freeze' button 156, which causes a still image to appear in the box 154. Choosing the 'Freeze' button 156 again restarts the video stream in the box 154 to enable the user to capture a different clip in the video stream." *Id*, lines 14 – 19. Further, Figure 9 clearly shows opening an e-mail page in steps 200 – 204 *before* opening video capture in step 206, et seq. *See also*, the corresponding description at col. 6, line 63 – col. 7, line 8.

Therefore, Cleron et al. teaches a user opening an e-mail application 110 with a button 122 for selection of visual content; the user selecting visual content from the open e-mail 110; the user selecting that the content is video from the open e-mail 110; the user starting 156 video streaming and stopping 156 it from the open e-mail 110; and the user selecting sending 126 the e-mail 110 from the open e-mail 110. However, that is not what any of the claims recite.

Claim 1, for example, recites "receiving an activate signal activating a video email feature;" streaming and storing video **in response to** the activate signal; and when an end of clip signal ends streaming, "launching an e-mail message in an e-mail application **responsive to** said **end of clip** signal; [and] **automatically attaching** [the] … video clip … to said e-mail message **without user interaction** responsive to the end of clip signal; … ." Lines 2 – 9 (emphasis added). This is quite different from what Cleron et al. teaches. The other independent claims 4, 10, 16, 19 and 22 all recite a "Web Access device" with analogous recitations; and therefore, analogous differences with Cleron et al. Therefore, Cleron et al. fails to anticipate the present invention as recited in independent claims 1, 4, 10, 16, 19 and 22.

Moreover, dependent claims include all of the differences with the references, as the claims from which they depend. MPEP §2143.03 ("If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)."). Therefore, regardless of whether it is well known to offer different compression formats as recited in claim 2, or use a timer to deactivate streaming video as recited in claims 3, 8, 14 and 21; Cleron et al. fails to teach or suggest the present invention as recited by claims 2, 3, 5 – 9, 11 – 15, 17, 18, 20 and 21, which depend from claims 1, 4, 10, 16 and 19. Reconsideration and withdrawal of the rejection of claims 1 – 22 under 35 U.S.C. §§102(e) and 103(a) is respectfully requested.

The applicant thanks the Examiner for efforts, both past and present, in examining the application. Believing the application to be in condition for allowance, both for the amendment to the claims and for the reasons set forth above, the applicant respectfully requests reconsideration and withdrawal of the objection to claim 19, reconsideration and withdrawal of the rejection of claims 1 – 22 under 35 U.S.C. §§102(e) and 103(a) and allowance of the application to issue.

The applicant notes that MPEP §706 "Rejection of Claims," subsection III, "PATENTABLE SUBJECT MATTER DISCLOSED BUT NOT CLAIMED" provides in pertinent part that

> If **the examiner** is satisfied after the search has been completed that patentable subject matter has been disclosed and the record indicates that the applicant intends to claim such subject matter, he or she **may note** in the Office action that **certain aspects or features** of the patentable invention have not been claimed and that if properly claimed such claims **may be given favorable consideration**.

(emphasis added). The applicant continues to believe that the written description of the present application is quite different than and not suggest by any reference of record. Accordingly, should the Examiner believe anything further may be required, the Examiner is requested to contact the undersigned attorney at the local telephone number listed below for a telephonic or personal interview to discuss any other changes.

Respectfully submitted,

Date: __Thursday, August 27, 2009__

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